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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 RICARDO LOPEZ,

12 Petitioner,

No. CIV S-04-1598 GEB GGH P

13 vs.

14 SCOTT KERNAN, et al.,

15 Respondents.

ORDER

16 \_\_\_\_\_/  
17 Petitioner, a state prisoner proceeding pro se, has  
18 timely filed a notice of appeal of this court's May 5, 2005,  
19 denial of his application for a writ of habeas corpus. Before  
20 petitioner can appeal this decision, a certificate of  
21 appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P.  
22 22(b).

23 A certificate of appealability may issue under 28  
24 U.S.C. § 2253 "only if the applicant has made a substantial  
25 showing of the denial of a constitutional right." 28 U.S.C.  
26 § 2253(c)(2). The certificate of appealability must "indicate

1 which specific issue or issues satisfy" the requirement. 28  
2 U.S.C. § 2253(c) (3).

3 A certificate of appealability should be granted for  
4 any issue that petitioner can demonstrate is "'debatable among  
5 jurists of reason,'" could be resolved differently by a different  
6 court, or is "'adequate to deserve encouragement to proceed  
7 further.'" Jennings v. Woodford, 290 F.3d 1006, 1010 (9th Cir.  
8 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).<sup>1</sup>

9 Petitioner has made a substantial showing of the denial  
10 of a constitutional right in the following issue presented in the  
11 instant petition: Whether there was sufficient evidence to find  
12 petitioner unsuitable for parole.

13 Accordingly, IT IS HEREBY ORDERED that a certificate of  
14 appealability is issued in the present action.

15 Dated: June 20, 2005

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17 /s/ Garland E. Burrell, Jr.  
18 GARLAND E. BURRELL, JR.  
19 United States District Judge  
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24 <sup>1</sup> Except for the requirement that appealable issues be  
25 specifically identified, the standard for issuance of a  
26 certificate of appealability is the same as the standard that  
applied to issuance of a certificate of probable cause.  
Jennings, at 1010.